UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/216,378	12/18/1998	RIX S. CHAN	450.250US1	9856

24333   7590   02/25/2004

GATEWAY, INC.
ATTN: SCOTT CHARLES RICHARDSON
610 GATEWAY DRIVE
MAIL DROP Y-04
N. SIOUX CITY, SD 57049

EXAMINER
LAO, LUN S

ART UNIT	PAPER NUMBER
2643	

DATE MAILED: 02/25/2004

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Please find below and/or attached an Office communication concerning this application or proceeding.

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 03 February 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may <u>only</u> be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

<u>PERIOD FOR REPLY</u> [check either a) or b)]

a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.

b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP ·706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1.☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.

2.☐ The proposed amendment(s) will not be entered because:

(a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);

(b) ☐ they raise the issue of new matter (see Note below);

(c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

(d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____.

3.☐ Applicant's reply has overcome the following rejection(s): _____.

4.☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

5.☒ The a)☐ affidavit, b)☐ exhibit, or c)☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: *See Continuation Sheet.*

6.☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.

7.☒ For purposes of Appeal, the proposed amendment(s) a)☐ will not be entered or b)☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: *1-5, 7-27 and 29-30.*

Claim(s) withdrawn from consideration: _____.

8.☐ The drawing correction filed on _____ is a)☐ approved or b)☐ disapproved by the Examiner.

9.☐ Note the attached Information Disclosure Statement(s)(PTO-1449) Paper No(s). _____.

10.☐ Other: _____

DUC NGUYEN
PRIMARY EXAMINER

Continuation of 5. does NOT place the application in condition for allowance because: Applicant's arguments are not persuasive. Note the final office action for the examiner's position. As to the argued "standard headphone" (remarks, page 8), the claimed language does not provide specifics of the "standard", nor does the specification as filed. The headphone assembly of Denenberb performs typical headphone functionality and thus is standard. As to the argument that Denenberg is not related to personal computers (remarks, page 8), Denenberg's headphone is used in a networked computer environment, ie, personal computers connected via a network. See Denenberg, col. 1, lines 25-35; col. 2, lines 38-44. As to the argument that Lambrecht and Denenberg are directed to different problems (remarks, page 9), while the environments wherein the respective teachings are implemented are different, both Lambrecht and Denenberg are directed to the same technology/problem which is noise cancellation. It is the teachings regarding the technology, rather than the respective implementation environments, of Lambrecht and Denenberg, that are combined. Regarding the argued synchronous controller of Denenberg (remarks, pages 9, 10), applicant's claims do not require nor exclude the controller being synchronous or asynchronous. The same is true as to the argued frequency range / transient. Regarding the argument that the combination of Lambrecht and Denenberg would fundamentally change the operation (remarks, page 10), Denenberg is relied on to teach using a DSP to mix the noise cancellation signal with an audio signal before providing such mixed signal to a headphone, as discussed in the rejectio of claim 1. Using a DSP to mix the noise cancellation signal with an audio signal in Lambrecht would not change the intended operation of Lambrecht which is active noise cancellation. As to the argued profile (remarks, page 11), it is met by Lambrecht because noise characteristics/profiles are maintained by the system for selection. See Lambrecht, col. 6, lines 44-48.